

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

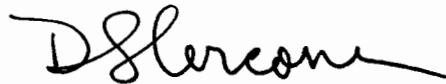
FREDERICK T. RAY, III,	)	
Plaintiff,	)	
	)	2:12cv985
v.	)	Electronic Filing
	)	
JEFF ROGERS, Corrections Program	)	Judge David Stewart Cercone/
Manager; DAVID MITCHELL, Captain;	)	Magistrate Judge Maureen P. Kelly
COI HARKLEROAD, Corrections Officer;	)	
COI STEPHENS, Corrections Officer;	)	Re: ECF No. 47
MICHAEL SMITH, Activities Mgr/PRC;	)	
DAVID GRAINEY, MAJOR OF GUARD;	)	
MARK CAPOZZA, Deputy OF	)	
Services/PRC; F. NUNEZ, Hearing	)	
Examiner; GREG JOHNSON,	)	
Principal, Director of Educational Services -	)	
Member of PRC Misconduct Appeal Review)	)	
CARLA SWARTZ, Unit Manager PFC; R.	)	
DIETZ, Psychology Manager; LOUIS	)	
FOLINO, Superintendent; CAPTAIN	)	
DURCO, Shift Commander; CO1	)	
McDONOUGH; CAPT. HAYWOOD,	)	
SECURITY OFFICE CAPTAIN; LT.	)	
SHRADER, Lieutenant OF RHU; LT.	)	
MIEGHAN, Lieutenant; DORINA	)	
VARNER, Chief Grievance Officer;	)	
ROBERT MACINTYRE, Chief Hearing	)	
Examiner; LT. ARMSTRONG, Lieutenant	)	
Security Office; DAN DAVIS, Grievance	)	
Coordinator; CAPT WALKER, Rhu	)	
Captain; LT. BARKEFELT, Lieutenant;	)	
CO1 MILLER, Hearing Officer,	)	
Defendants.	)	

**ORDER**

AND NOW, this 25 day of March, 2014, after the Plaintiff filed an action in the above-captioned case, and after the Defendants filed a Motion to Dismiss for Failure to State a Claim, ECF No. 47, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the parties until March 17, 2014, to file written objections thereto, and no

objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss for Failure to State a Claim submitted on behalf of Defendants, ECF No. 47, is granted in part and denied in part as follows: the Motion is granted as to all claims raised in the Amended Complaint with the exception of Plaintiff's First Amendment retaliation claims brought against Defendants Armstrong and McDonough at Count XIV.



David Stewart Cercone  
United States District Judge

cc: Honorable Maureen P. Kelly  
United States Magistrate Judge

Frederick T. Ray  
GF-2852  
SCI Smithfield  
1120 Pike Street  
Huntingdon, PA 16652  
(Via First Class Mail)

Vincent R. Mazeski, Esquire  
(Via CM/ECF Electronic Mail)